

APPEAL NO. 032344
FILED OCTOBER 20, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 19, 2003. With respect to the issue before him, the hearing officer determined that the appellant's (claimant) compensable injury of _____, does not include depression. In her appeal, the claimant argues that the hearing officer applied the incorrect legal standard and that his determination that the compensable injury does not include depression is against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury does not include depression. The claimant had the burden to prove the causal connection between her _____, compensable injury and her depression. The extent-of-injury issue presented a question of fact for the hearing officer. There was conflicting evidence presented on the disputed issue. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As such, the hearing officer was required to resolve the conflicts and inconsistencies in the evidence and to determine what facts the evidence established. In this instance, the hearing officer simply was not persuaded that the claimant sustained her burden of proving that her compensable injury included depression. The hearing officer was acting within his province as the finder of fact in so finding. Nothing in our review of the record reveals that the challenged determination is so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We find no merit in the claimant's assertion that the hearing officer applied the incorrect legal standard in resolving the issue before him. Our review of the record reveals that the factors emphasized by the claimant in making the assertion that the hearing officer applied the wrong legal standard were in the nature of permissible commentary by the hearing officer on the position advanced by the claimant and on the credibility of her evidence. We perceive no error.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**FF
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Elaine M. Chaney
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Edward Vilano
Appeals Judge